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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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EMANUEL JEFFERIES; and LAMONT  
JEFFERIES,

Plaintiffs,

v.

BARBAROSA FOODS LTD; and  
WENDY'S INTERNATIONAL, INC.,

Defendants.

**ORDER ADOPTING  
RECOMMENDATION TO GRANT IN  
PART AND DENY IN PART MOTION  
TO PROCEED WITHOUT  
PREPAYING FEES AND DISMISS  
CLAIMS WITH LEAVE TO CORRECT  
FILINGS**

Case No. 2:24-cv-00543-AMA-DAO

District Judge Ann Marie McIff Allen

Magistrate Judge Daphne A. Oberg

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Before the Court is the Report and Recommendation issued by United States Magistrate Judge Daphne A. Oberg on September 3, 2024,<sup>1</sup> recommending the following actions:

- (1) The motion to proceed without paying the filing fee be granted as to Lamont Jefferies and denied as to Emanuel Jeffries;
- (2) Lamont Jefferies claims be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted; and
- (3) Emanuel Jefferies be allowed thirty days to refile the complaint with his own signature and pay the filing fee.

The parties were notified of their right to file objections to the Report and Recommendation within fourteen days of service. Plaintiffs did not file any objection and no defendant has been served or appeared.

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<sup>1</sup> See R. & R. (ECF No. 12).

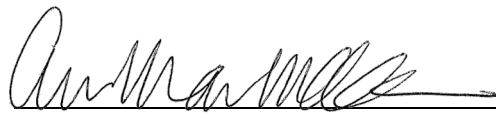
Having reviewed all relevant materials, including the reasoning set forth in the Magistrate Judge's Report and Recommendation, the Court adopts the recommendation, finding the motion to proceed without paying the filing fee is signed only by Plaintiff Lamont Jefferies and contains only information about Lamont Jefferies. Further, Lamont Jefferies has not alleged facts to state any claim he is entitled to bring because he describes events that involve Emanuel Jefferies, who did not sign the Complaint. Finally, the Complaint does contain sufficient information to suggest Emanuel Jefferies should be afforded an opportunity to pay the filing fee and sign a complaint in his own name.

**ORDER**

Based on the foregoing, the Court ADOPTS the Report and Recommendation (ECF No. 12) and:

- (1) GRANTS the motion to proceed without paying the filing fee (ECF No. 2) as to Lamont Jefferies and DENIES the same as to Emanuel Jefferies, without prejudice;
- (2) DISMISSES the Complaint without prejudice; and
- (3) FURTHER ORDERS that Emanuel Jefferies may pay the filing fee and refile a complaint in his own name, bearing his own signature, but must do so within thirty (30) days. If no further action is taken in this case, a judgment of dismissal will be entered as to Lamont Jefferies.

DATED this 27th day of September 2024.

  
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Ann Marie McLiff Allen  
United States District Judge